

### REMARKS

By this Amendment, claims 1, 6, 10, and 14 are amended. Accordingly, claims 1-2, 4-6, and 8-16 are pending in this application. No new matter is presented in this Amendment. Favorable reconsideration and prompt allowance of claim 1-2, 4-6, and 8-16 are earnestly solicited.

The Patent and Trademark Office (PTO) rejects claims 1, 2, 4-6, and 8-16 under 35 U.S.C. §112, first paragraph, asserting that the phrase: "...based on the location of a unit of data within the TX data," added in the response filed January 16, 2007, was new matter. Independent claims 1, 6, 10, and 14 are amended to delete this phrase and obviate the rejection thereto. Accordingly, withdrawal of the rejection under 35 U.S.C. §112, first paragraph is respectfully requested.

The PTO further rejects claims 1, 2, 4-6 and 8-16 under 35 U.S.C. 103(a) over U.S. Patent No. 5,243,629 to Wei in view of the Applicants' Admitted Prior Art ("AAPA"; Specification May 2, 2001, pages 1-3, and Fig.1). This rejection is respectfully traversed.

Independent claims 1, 6, 10, and 14 recite, *inter alia*, a QAM (Quadrature Amplitude Modulation) transmitting apparatus having a multiplicity of transmission bands with variable transmission rates, wherein band splitting means distributes the data to each of the predetermined number of band processing means based on "predetermined and different data transmission rates." (Emphasis added). Neither the AAPA nor Wei discloses, teaches, or suggests this feature.

Notwithstanding the fact that Wei discloses wherein a high definition television (HDTV) signal is transmitted by a multi-subcarrier transmission scheme, unlike the Applicants' apparatus that claims wherein the band splitting means distributes the data to each of the predetermined number of band processing means based on predetermined and different data transmission rates," Wei appears only to disclose, at column 4, lines 43-46, dividing the NTSC bandwidth into multiple subchannels of equal bandwidth. Accordingly, Applicant respectfully submits that Wei, discloses subchannels of equal bandwidth and does not disclose, teach, or suggest different data transmission rates.

Furthermore, independent claims 1, 6, 10, and 14 are amended to recite wherein the composite data transmission rate "is not an integer multiple of one of the predetermined and different data transmission rates" of the band TX/RX processors/means. This feature is supported by the specification at page 8, lines 8 and 9. Wei does not disclose, teach or suggest this feature.

All objections and rejections have been addressed. In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance and favorable reconsideration and prompt allowance of claims 1-2, 4-6, and 8-16 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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